



FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on the agency's shared enforcement with the Consumer Financial Protection Bureau (CFPB) of the information collection requirements in subpart N of the CFPB's Regulation V (Rule). That clearance expires on February 28, 2022.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the SUPPLEMENTARY INFORMATION section below. Write "Regulation V, subpart N; PRA Comment: FTC File No. P072108" on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the collection of information and supporting documentation should be addressed to Ryan Mehm, Attorney, Bureau of Consumer Protection, (202) 326-2918, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Title: Regulation V, Subpart N (12 CFR 1022.130-1022.138).

OMB Control Number: 3084-0128.

Type of Review: Extension of a currently approved collection.

Abstract: The FTC shares enforcement authority with the CFPB for subpart N of Regulation V. Subpart N requires nationwide consumer reporting agencies and nationwide consumer specialty reporting agencies to provide to consumers, upon request, one free file disclosure within any 12-month period. Generally, it requires the nationwide consumer reporting agencies, as defined in Section 603(p) of the Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681a(p), to create and operate a centralized source that provides consumers with the ability to request their free annual file disclosures from each of the nationwide consumer reporting agencies through a centralized internet website, toll-free telephone number, and postal address. Subpart N also requires the nationwide consumer reporting agencies to establish a standardized form for internet and mail requests for annual file disclosures and provides a model standardized form that may be used to comply with that requirement. It additionally requires nationwide specialty consumer reporting agencies, as defined in Section 603(w) of the FCRA, 15 U.S.C. 1681a(w), to establish a streamlined process for consumers to request annual file disclosures. This streamlined process must include a toll-free telephone number for consumers to make such requests.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Rule.

Burden Statement

Because the FTC shares enforcement authority with the CFPB for subpart N, the two agencies split between them the related estimate of PRA burden for firms under their co-enforcement jurisdiction. Estimated PRA burden, excluding the halving (to be shown at the conclusion of this analysis), are as follows:

A. Requests per Year from Consumers for Free Annual File Disclosures

When the FTC last sought clearance renewal for the Rule, the Consumer Data Industry Association (“CDIA”) estimated that in 2016 and 2017, the nationwide consumer reporting agencies provided on average approximately 25 million free annual file disclosures through the centralized Internet website required to be established by the FACT Act and subpart N. Based on its knowledge of the industry, FTC staff projected that the consumer reporting agencies provided no more than 6 million free annual file disclosures through the centralized toll-free telephone number and postal address required to be established by the FACT Act and subpart N. Accordingly, we estimated 31 million requests per year as a representative average to calculate PRA burden. We expect that the number of requests for free annual credit reports will rise over the next three years because of increases in the population and consumer awareness that they are entitled to a free annual report. As a proxy, we are now estimating 34 million requests per year as a representative average year to estimate PRA burden for purposes of the instant analysis.

The Commission, however, seeks more recent estimates of the number of requests consumers are making for free annual credit reports. In addition to data on the number of requests, data on how the number of requests has changed over time, and how these requests are being received – by Internet, phone, or by mail – would be most helpful.

B. Annual File Disclosures Provided Through the Internet

Both nationwide and nationwide specialty consumer reporting agencies will likely handle the overwhelming majority of consumer requests through Internet websites. The annual file disclosure requests processed through the Internet will impose a *de minimis* hourly burden in personnel costs per request on the nationwide and nationwide specialty consumer reporting agencies, except for those requests that are redirected to the mail process.¹ However, consumer reporting agencies periodically will be required to adjust the Internet capacity needed to handle

¹ See *infra* note 5.

the changing request volume. Consumer reporting agencies likely will make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Trained personnel will need to spend time negotiating and renegotiating such contracts. Commission staff estimates that negotiating such contracts will require a cumulative total of 8,320 hours and \$646,963 in labor costs.² Such activity is treated as an annual burden of maintaining and adjusting the changing Internet capacity requirements.

C. Annual File Disclosures Requested Over the Telephone

Most of the telephone requests for annual file disclosures will also be handled in an automated fashion, with *de minimis* personnel costs needed to process the requests except for those requests that are redirected to the mail process.³ As with the Internet, consumer reporting agencies will require additional time and investment to increase and administer the automated telephone capacity for the expected increase in request volume. The nationwide and nationwide specialty consumer reporting agencies will likely make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Staff estimates that this will require a total of 6,240 hours at a cost of \$485,222 in labor costs.⁴ This activity also is treated as an annual recurring burden necessary to obtain, maintain, and adjust automated call center capacity.

² Based on the time necessary for similar activity in the federal government (including at the FTC), staff estimates that such contracting and administration will require approximately 4 full-time equivalent employees (FTE) for the web service contracts. Thus, staff estimates that administering the contract will require four FTE, which is 8,320 hours per year (four FTE x 2,080 hours/year). The cost is based on the reported May 2020 Bureau of Labor Statistics (BLS) rate (\$77.76) for computer and information systems managers. See *Occupational Employment and Wages – May 2020*, Table 1, available at <https://www.bls.gov/news.release/pdf/ocwage.pdf>. Thus, the estimated setup and maintenance cost for an Internet system is \$646,963 per year (8,320 hours x \$77.76/hour).

³ See *infra* note 5.

⁴ Staff estimates that recurring contracting for automated telephone capacity will require approximately 3 FTE, a total of 6,240 hours (3 x 2,080 hours). Applying an hourly wage rate of \$77.76 (see *supra* note 2), estimated setup and maintenance cost is \$485,222 (6,240 x \$77.76) per year.

D. Annual File Disclosures Requiring Processing by Mail

Based on their knowledge of the industry, staff believes that no more than 1% of consumers (1% x 34 million, or 340,000) will request an annual file disclosure through U.S. postal service mail. Staff estimates that clerical personnel will require 10 minutes per request to handle these requests, thereby totaling 56,667 hours of time. $[(340,000 \times 10 \text{ minutes})/60 \text{ minutes per hour} = 56,667 \text{ hours}]$

In addition, whenever the requesting consumer cannot be identified using an automated method (a website or automated telephone service), it will be necessary to redirect that consumer to send identifying material along with the request by mail. Staff estimates that this will occur in about 5% of the new requests (or 1,683,000)⁵ that were originally placed over the Internet or telephone. Staff estimates that clerical personnel will require approximately 10 minutes per request to input and process those redirected requests for a cumulative total of 280,500 clerical hours. $[(1,683,000 \times 10 \text{ minutes})/60 \text{ minutes per hour} = 280,500 \text{ hours}]$

E. Instructions to Consumers

The Rule also requires that certain instructions be provided to consumers. *See* Rule sections 1022.136(b)(2)(iv)(A-B), 1022.137(a)(2)(iii)(A-B). Minimal associated time or cost is involved, however. Internet instructions to consumers are embedded in the centralized source website and do not require additional time or cost for the nationwide consumer reporting agencies. Similarly, for telephone requests, the automated phone systems provide the requisite instructions when consumers select certain options. Some consumers who request their credit reports by mail might additionally request printed instructions from the nationwide and nationwide specialty consumer reporting agencies. Staff estimates that there will be a total of

⁵ This figure reflects five percent of all requests, net of the estimated one percent of all requests that might initially be made by mail. That is, $0.05 \times (34,000,000 - 340,000) = 1,683,000$.

2,023,000 requests each year for free annual file disclosures by mail.⁶ Based on their knowledge of the industry, staff estimates that, of the predicted 2,023,000 mail requests, 10% (or 202,300) will request instructions by mail. If printed instructions are sent to each of these consumers by mail, requiring 10 minutes of clerical time per consumer, this will total 33,717 hours. [(202,300 instructions x 10 minutes)/60 minutes per hour].

F. Labor Costs

Labor costs are derived by applying hourly cost figures to the burden hours described above. Staff anticipates that processing of requests for annual file disclosures and instructions will be performed by clerical personnel and estimates that the processing will require 370,884 hours at a cost of \$7,013,416. [(56,667 hours for handling initial mail requests + 280,500 hours for handling requests redirected to mail + 33,717 hours for handling instructions mailed to consumers) x \$18.91 per hour.⁷]

As elaborated on above, staff estimates that a total of 14,560 labor hours will be needed to negotiate or renegotiate outsourced service contracts annually (or as conditions otherwise change) to increase internet (8,320 hours) and telephone (6,240 hours) capacity requirements for internet web services and the automated telephone call center. This will result in approximately \$1,132,186 per year in labor costs. [14,560 hours x \$77.76 per hour⁸]

Thus, estimated cumulative labor costs are \$8,145,602.

G. Capital/Non-Labor Costs

As in the previous PRA clearance analysis, FTC staff believes it is likely that consumer reporting agencies will use third-party contractors (instead of their own employees) to increase

⁶ This figure includes both the estimated 1% of 34 million requests that will be made by mail each year (340,000), and the estimated 1,683,000 requests initially made over the Internet or telephone that will be redirected to the mail process (*see supra* note 5).

⁷ *See Occupational Employment and Wages – May 2020*, Table 1, available at <https://www.bls.gov/news.release/pdf/ocwage.pdf> (Office and administrative support workers, all others).

⁸ *See supra* notes 2 and 4.

the capacity of their systems. Because of the way these contracts are typically established, these costs will likely be incurred on a continuing basis and will be calculated based on the number of requests handled by the systems. Staff estimates that the total annual amount to be paid for services delivered under these contracts is \$12,454,200.⁹

H. Net Burden for FTC, After 50:50 Split

After halving the updated estimates to split the PRA burden with the CFPB regarding the Rule, the FTC's burden totals are 192,722 hours, \$4,072,801 in associated labor costs, and \$6,227,100 in non-labor/capital costs.

Request for Comments

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of maintaining records and providing disclosures to consumers. All comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Write "Regulation V, subpart N; PRA Comment: FTC File No. P072108" on your comment. Your comment—including your name and your state—will be

⁹ This consists of an estimated \$8,323,200 for automated telephone cost (\$1.36 per request x 6.12 million requests) and an estimated \$4,131,000 (\$0.15 per request x 27.54 million requests) for Internet web service cost. Per unit cost estimates are based on staff's knowledge of the industry.

placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Due to the public health emergency in response to the COVID-19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write "Regulation V, subpart N; PRA Comment: FTC File No. P072108" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential" —as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) —including in particular competitively sensitive

information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov*, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see *<https://www.ftc.gov/site-information/privacy-policy>*.

Josephine Liu,

Assistant General Counsel for Legal Counsel.